



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/295,690

04/21/1999

JEROME A MOUTON JR.

081862.P122

7482

8791

7590

04/04/2008

BLAKELY SOKOLOFF TAYLOR & ZAFMAN

1279 OAKMEAD PARKWAY

SUNNYVALE, CA 94085-4040

EXAMINER

FLEURANTIN, JEAN B

ART UNIT

PAPER NUMBER

2162

MAIL DATE

DELIVERY MODE

04/04/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/295,690

**Applicant(s)**

MOUTON ET AL.

**Examiner**

JEAN B. FLEURANTIN

**Art Unit**

2162

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 December 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

1. This is in response to Applicant(s) arguments filed on 12/27/2007.

The following is the current status of claims:

Claims 1-17 remain pending for examination.

Applicant's arguments filed 12/27/2007, with respect to claims 1-17 have been fully considered but they are not persuasive for the following reasons, see sections (a) (response to arguments) and (b) (repeated rejections).

### ***Response to Arguments***

- (a). Applicant's arguments start from page 6 through page 10.

Applicant's arguments with respect to claims 1-17 have been fully considered but they are not persuasive in part. Because, the prior art of record discloses the claimed limitations.

On page 7, lines 4-14, Applicant indicates, "It is respectfully submitted that the APA does not disclose all of the limitations of amended claim 1, which reads: A method for upgrading the schema of a database, comprising: updating a message from a first version to an upgraded version by chaining through intermediate versions, wherein updating comprises: receiving an update message having a first version format; and repeatedly generating a revised update message having a next most recent version format based on the update message until a final update message having an upgraded version format is generated."

It is noted that APA discloses version database is a specific schema and the specific data in the structures, databases are embodied in a series of versions, each with a changed schema and new data elements. A new version of the database is generated from an old one by upgrading its schema and mapping its data to the new schema. Database software generally support upgrading from any of several previous versions; see page 1, lines 13-19.

Further, page 2, lines 1-8, APA discloses upgrading is performed by upgrading a mirror image database to the new version and then at the appropriate time switching to use the mirror image as the primary database, process, upgrading is performed by receiving database update messages from a previous version and mapping them into the schema of the new version, an empty database structure conforming to the schema of the new version is created to accept these mappings.

On page 9, lines 4-14, Applicant indicates that "It is respectfully submitted that Hug does not disclose all of the limitations of amended claim 1, which reads: A method for upgrading the schema of a database, comprising: updating a message from a first version to an upgraded version by chaining through intermediate versions, wherein updating comprises: receiving an update message having a first version format; and repeatedly generating a revised update message having a next most recent version format based on the update message until a final update message having an upgraded version format is generated."

It is noted that Hug discloses "updating a message from a first version to an upgraded version by chaining through intermediate versions" [i.e., version data file 40 and the difference data file to reflect the changes in the subsequent version col. 6 lines 38-41], "wherein updating comprises: "receiving an update message having a first version format" [i.e., regenerating version; see col. 5, lines 38-46]; and "repeatedly [i.e., iteratively repeat; see col. 5, lines 58-60] generating a revised update message having a next most recent version format based on the update message until a final update message having an upgraded version format is generated" [see col. 5, lines 48-56].

MPEP 2111: During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification" Applicant always has the opportunity to amend

Art Unit: 2162

the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969). The court found that applicant was advocating ... the impermissible importation of subject matter from the specification into the claim. See also In re Morris, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997) (The court held that the PTO is not required, in the course of prosecution, to interpret claims in applications in the same manner as a court would interpret claims in an infringement suit. Rather, the "PTO applies to verbiage of the proposed claims the broadest reasonable meaning of the words in their ordinary usage as they would be understood by one of ordinary skill in the art, taking into account whatever enlightenment by way of definition or otherwise that may be afforded by the written description contained in application's specification.").

The broadest reasonable interpretation of the claims must also be consistent with the interpretation that those skilled in the art would reach. In re Cortright, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999).

For the above reasons, it is believed that the last Office Action dated 09/21/2007 was proper. Therefore, the rejection is maintained.

#### ***Claim Rejections - 35 USC § 102***

(b) The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

I.) Claims 1-17 are rejected under 35 U.S.C. 102 (a) as being anticipated by applicant background, admitted arts, APA ("APA").

As per claim 1, APA discloses "a method for upgrading a database" [i.e., database upgrading, previous versions; page 1, lines 18-19], comprising:

"updating a message from a first version to an upgraded version by chaining through intermediate versions" [i.e., version database is a specific schema and the specific data in the structures, databases are embodied in a series of versions, each with a changed schema and new data elements. A new version of the database is generated from an old one by upgrading its schema and mapping its data to the new schema. Database software generally support upgrading from any of several previous versions; see page 1, lines 13-19], "wherein updating comprises: receiving an update message having a first version format; and repeatedly generating a revised update message having a next most recent version format based on the update message until a final update message having an upgraded version format is generated" [i.e., in a redundancy environment, upgrading is sometimes performed by upgrading a mirror image database to the new version and then at the appropriate time switching to use the mirror image as the primary database, process, upgrading is performed by receiving database update messages from a previous version and mapping them into the schema of the new version, an empty database structure conforming to the schema of the new version is created to accept these mappings; see page 2, lines 1-8].

As per claim 2, APA discloses "generating a revised update message having a next most recent version format includes: receiving a first update message; and calling a next most recent version mapping function to map contents of the first update message to generate a second update message" [i.e., each with a changed schema and new data elements. A new version of the database is generated from an old one by upgrading its schema and mapping its data to the new schema. Database software will generally support upgrading from any of several previous versions; see page 1, lines 15-19; process, upgrading is performed by receiving database update messages from a previous version and mapping them into the schema of the new version, an empty database structure conforming to the schema of the new version is created to accept these mappings; see page 2, lines 4-8].

As per claim 3, APA discloses "the update message includes a set of records for a database in the first version" [see page 1, lines 15-18].

Art Unit: 2162

As per claim 4, APA discloses "the set of records for the database in the first version is a complete set of records for the database" [see page 1, lines 15-18].

As per claims 5-8, the limitations of claims 5-8 are similar to claims 1-4, therefore, the limitations of 5-8 are rejected in the analysis of claims 1-4, and these claims are rejected on that basis.

As per claims 9-12, the limitations of claims 9-12 are similar to claims 1-4, therefore, the limitations of 9-12 are rejected in the analysis of claims 1-4, and these claims are rejected on that basis.

As per claims 13-17, the limitations of claims 13-17 are similar to claims 1-4, therefore, the limitations of 13-17 are rejected in the analysis of claims 1-4, and these claims are rejected on that basis.

II.) Claims 1-17 are rejected under 35 U.S.C. 102(9) as being anticipated by USPN. 5,806,078 issued to Hug et al., ("Hug").

As per claim 1, Hug discloses "a method for upgrading a database" [see col. 79, lines 5-23], comprising:

"updating a message from a first version to an upgraded version by chaining through intermediate versions" [i.e., version data file 40 and the difference data file 42 to reflect the changes in the subsequent version col. 6 lines 38-41], "wherein updating comprises:

"receiving an update message having a first version format" [i.e., regenerating version (20); see col. 5, lines 38-46]; and "repeatedly [i.e., iteratively repeat; see col. 5, lines 58-60] generating a revised update message having a next most recent version format based on the update message until a final update message having an upgraded version format is generated" [see col. 5, lines 48-56].

Art Unit: 2162

As per independent claims 5, 9 and 13 the limitations of independent claims 5, 9 and 13 are similar to the independent claim 1, therefore, the limitations of independent claims 5, 9 and 13 are rejected in the analysis of independent claim 1, and these claims are rejected on that basis.

As per claims 6-8, the limitations of claims 6-8 are similar to claims 1, 5, 9 and 13, therefore, the limitations of 6-8 are rejected in the analysis of claims 1, 5, 9 and 13, and these claims are rejected on that basis.

As per claims 10-12, the limitations of claims 10-12 are similar to claims 1, 5, 9 and 13, therefore, the limitations of 10-12 are rejected in the analysis of claims 1, 5, 9 and 13, and these claims are rejected on that basis.

As per claims 14-17, the limitations of claims 14-17 are similar to claims 1, 5, 9 and 13, therefore, the limitations of 14-17 are rejected in the analysis of claims 1, 5, 9 and 13, and these claims are rejected on that basis.



***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2162

**CONTACT INFORMATION**

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEAN B. FLEURANTIN whose telephone number is 571-272-4035. The examiner can normally be reached on 7:05 to 4:35.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN E BREENE can be reached on 571-272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/JEAN B. FLEURANTIN/

Primary Examiner, Art Unit 2162